THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 30

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RONALD M. CASTONGUAY, and
GARY B. CROCKETT

Appeal No. 95-2004
Application 07/597,370[1]

ON BRIEF

Before THOMAS, KRASS and LEE, Administrative Patent Judges.

LEE, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 6 and 13-15. Claims 1-5 and 7-12 have been canceled. No claim has been allowed.

References relied on by the Examiner

Fields et al. (Fields)	5,111,391	May 1992

[1] Application for patent filed October 12, 1990.

NAMES© Scheduling System "Telemarketing Know-How from AT&T", issued 1989 by AT&T. (AT&T Names)

The Rejections on Appeal

Claims 6 and 13-15 stand finally rejected under 35 U.S.C. § 103 as being unpatentable over Fields and AT&T Names.

The Invention

The invention is directed to a method for planning and managing personnel in an environment in which there is a constantly varying event load by the time of day and by the day of week. The personnel includes a team of servers to service the event load. Claim 13 is the only independent claim and reads as follows:

> 13. A method using a central computer and a plurality of workstation computers connected to the central computer, for planning and managing personnel in an environment in which there is a constantly varying event load by time of day and by day of week, the personnel including a team of servers responsible for servicing the event load, each of the central and workstation computers including a processor, comprising the steps of:
>
> > (a) organizing the team of servers responsible for servicing the constantly varying event load into a plurality of management units, each management unit having at least one workstation computer for managing one or more groups of individual servers at the management unit and for communicating with the central computer;

> (b) using the processor of the central computer to generate a forecast of (i) an event load expected to occur during intervals of a forecast time period, and (ii) a number of servers required to service the expected event load during each interval of the forecast time period;
>
> (c) using the processor of the central computer to allocate the expected event load among the plurality of management units according to a
>
> predetermined number of servers expected to be available at each management unit during each interval of the forecast time period; and
>
> (d)using the processor of the central computer to reallocate the expected event load among the plurality of management units during one or more intervals of the forecast time period, the reallocated event load being communicated from the central computer to the management unit workstation computers.

Opinion

We do not sustain the rejection of claims 6 and 13-15 as being unpatentable over Fields and AT&T Names.

The appellants correctly point out that claim 13 specifies a plurality of management units which together service an overall event load and each management unit includes one or more groups of individual servers. The examiner cited to Fields as disclosing a staff scheduling system for managing a "multi-unit operation" (answer at 4,

lines 13-14), and states (answer at 4, lines 19-22): "Since this is a multi-unit system or a multi-unit organization, it would have been obvious to one of ordinary skill in the art that each of these location does work in a cooperative manner." We disagree with the examiner. The multiple units or stores in Fields do not cooperate with each other to service an overall event load.

In Field's disclosure, there is no overall event load. Each store location has its own unique event load which is served by

resources specific for that location. The examiner has not established that any event load is allocated across plural store locations. In that regard, claim 13 specifically requires: "allocating the expected event load among the plurality of management units according to a predetermined number of servers expected to be available at each management unit during each interval of the forecast time period." It is implicit in claim 13 that plural management units would participate at any one time to respond collectively to the total event load. That is also consistent with the

appellants' specification. The examiner has not demonstrated in Fields a collective servicing of the total event load by servers from different operational units according to the availability of servers at the various units.

Fields involves the creation of an optimum staff schedule for each store location based on the specific requirements of the location. Note that in column 1, lines 46-52, Fields states:

> Each remote location has unique differences in layout, sales patterns, sales volume, and product mix. These differences are further complicated by the uniqueness of each day of the week and seasonality of the year. Such variables must be combined and examined to create a unique optimum staff schedule for each remote location.

The mere fact that Fields refers to a multi-unit operation does not satisfy or reasonably suggest the claim feature at issue.

The appellants correctly assert that the examiner has misconstrued Fields (Br. at 7). The appellants' claimed allocating step is not found or reasonably suggested by Fields. It has not been shown that the multiple units of Fields cooperate to

share the responsibility for handling a collective event load.

The examiner answers that the appellants' claims do not positively recite "working in a cooperative manner." That is true, but the claims require a plurality of management units to service the event load, and it is recited that the expected event load is allocated among the different management units. Thus, the management units must cooperate at least in that manner. The use of a central authority or station to make the individual schedules of many store units whose individual event loads and personnel resources are separate from each other does not satisfy the appellants' claims.

We reject the appellants' other argument that Fields does not disclose for each store a constantly varying event load by time of day and by the day of week. In our view, because the tasks to be serviced in each store varies by the time of day and by the day of week, Fields does disclose, for each store unit, a constantly varying event load.

The examiner relied on AT&T Names to try to account for the "reallocating" step required by the appellants' claim 13 (answer

at 3-4). But the deficiency of Fields is not made up by the disclosure of AT&T Names. While AT&T Names refers to a "team" for handling calls, the appellants correctly argue (Br. at 12) that the team of AT&T Names is not subdivided into a plurality of management units which cooperate to handle a total event load. Thus, the allocating step of claim 13 is also lacking in AT&T Names, as it is lacking in Fields. The system of AT&T Names (at 2-1) forecasts work volume based on historical data, determines how many people are needed to achieve a desired level of service, and selects the people based on their availability. But the examiner has not identified any disclosure which reasonably would have suggested "allocating the expected event load among the plurality of management units according to a predetermined number of servers expected to be available at each management unit during each interval of the forecast time period."

Moreover, claim 13 further requires the step of reallocating the expected event load among the plurality of management units during one or more intervals of the forecast time period. We disagree with the appellants' contention that AT&T Names does not disclose or reasonably suggest changing

schedules during an actual forecast time period based on the actual event load for that period. On pages 3-18, AT&T Names states that an automated

telemarketing center cannot afford to rely on information that is two or three days old and the best schedule will reflect "up to the minute" changes. It also states that adjustments in schedules can be done any time after the schedule has been created. Thus, in our view, the disclosure reasonably would have suggested making changes during the actual forecast period. Nevertheless, the examiner has failed to identify or otherwise explain any reasonable suggestion stemming from AT&T Names for a plurality of management units which collectively service a event load, whether by allocation or reallocation of the event load.

From the bottom of page 13 to the top of page 14 in the answer, the examiner states that AT&T Names discloses having more than one team of call handlers and therefore implies having more than one supervisory group, citing pages 3-3 and 3-16. However, we can find no such disclosure on page 3-3 of

AT&T Names, and on page 3-16 of the reference, we find only a single reference to "each team leader in the office." The examiner is reading far too much into the phrase "each team leader in the office." The phrase does not reasonably disclose or suggest that the entire event load of incoming calls at any one time is collectively serviced by a plurality of teams/management units which are allocated respective portions of the entire load. It is mere

speculation that this is the case. Moreover, the other parts of the AT&T Names reference do not corroborate the picture as envisioned by the examiner. It may be that for each shift the team is under the management of a team leader and several individuals in the office are qualified to serve in that role. Or, there may be more than one team but each team is responsible for a separate shift. Note also that on page 3-3, AT&T Names indicates that all employees are in one supervisory group. The examiner simply has not established that AT&T Names discloses or would have reasonably suggested that more than one management unit or team is called upon at any one

time to collectively service an incoming total event load.

We reiterate that in our view the allocating step of claim 13 requires plural management units to be active in any one time period or shift. It would be unreasonable to regard the claimed allocation feature as being met by merely having more than one employee shift in one 24 hour period. While each shift would presumably handle the entirety of the event load to another shift during the period of that shift and thus no allocation of the event load occurs, it is implicit in the claims that the plural management units must share responsibility for work in the same period or shift. In any event, the examiner has not taken the view that merely having different shifts in the day satisfies the claimed allocation feature. Neither do we.

For the foregoing reasons, we do not sustain the rejection of claim 13, and claims 6 and 14-15 all of which depend from claim 13, over Fields and AT&T Names.

Conclusion

The rejection of claims 6 and 13-15 under 35 U.S.C. § 103 as being unpatentable over Fields and AT&T Names is reversed.

REVERSED

JAMES D. THOMAS Administrative Patent Judge	)	
ERROL A. KRASS Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
JAMESON LEE Administrative Patent Judge	)	

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